

2011 MAY 26 PM 2:19

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; AND DOES 1 THROUGH  
100, INCLUSIVE.

Defendants.

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK,

Cross-Complainants,

-vs-

OMAR RODRIGUEZ, and Individual,

Cross- Defendant.

CASE NO.: BC 414 602

Assigned to: Hon. Joanne B. O'Donnell, Judge  
Dept. 37

Complaint Filed: May 28, 2009

PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S MOTION *IN LIMINE* NO. 9  
TO EXCLUDE ANY REFERENCE TO USE OF  
THE TERM "NO HUMANS INVOLVED" BY  
BURBANK POLICE OFFICERS

Final Status Conference:

DATE: June 8, 2011  
TIME: 9:00 a.m.  
DEPT: 37

Trial Date: April 13, 2011

5/23

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. THE PHRASE 'NO HUMANS INVOLVED' WAS USED

3 BY THE BURBANK POLICE DEPARTMENT TO DESCRIBE

4 AN ARMENIAN MURDER VICTIM AND HER ARMENIAN SUSPECT HUSBAND

5 Defendant seeks to exclude at trial any evidence that Burbank Police officers used the phrase  
6 "no humans involved" on the ground that there has been no evidence that the phrase was ever used in  
7 reference to Armenians, or any minority. Defendant is mistaken.

8 During his deposition, Plaintiff Steven Karagiosian described a briefing he received at the  
9 Burbank Police Department about a murder. The victim and her suspect husband were both  
10 Armenian. The officer giving the briefing concluded by saying, "It's not a big deal anyway. One  
11 person dead. It's like NHI."

12 Karagiosian testified:

13 Q. Okay. So what is his -- what was his comment  
14 about "NHI"?

15 A. I walked in -- it was probably at 2:30 in the  
16 morning I got called in. I came in to work. And he was  
17 in his office. And I walked in. And basically what they  
18 were going to do is de- -- they were going to brief me on  
19 what was going on.

20 And I walked in. They said, "We have a" -- "a  
21 murder that happened," just like you asked. "Somebody  
22 walked in. Boom. Shot in the head. She's dead.  
23 Husband's upstairs. He comes running down. Calls 911.  
24 Police show up. Nobody else at the house. We have him  
25 detained." Actually, I shouldn't say "detained." "We  
26 have him here on his free will to interview him. And  
27 basically he speaks a little bit of English. Half and  
28 half. He speaks English. He speaks Armenian."

1 I said, "Okay. That's fine."

2 So basically what we were doing is -- is doing  
3 background checks, lack of a better word, on the victim  
4 and the witness, finding out criminal record, finding --  
5 because it's common that it could be some kind of dope  
6 ripoff or something. Just to get a little knowledge of  
7 what they were -- what they were involved in or if  
8 they're involved in anything.

9 And at that point, he's like -- he's like, "It's  
10 not a big deal anyway." He's like, "One person dead.  
11 It's like NHI."

12 And I was like, "NHI?"

13 He's like, "Yeah." He's like, "No humans  
14 involved."

15 I just walked out of the office. I just left.

16 (Karagiosian 572:7-573:11.)

17 Furthermore, Defendant admits in its own motion that Plaintiff Omar Rodriguez testified  
18 during his deposition that he heard Burbank officers use the phrase "no humans involved" to refer to  
19 Armenian, African-American or Hispanic suspects. Whether or not Rodriguez had become "too  
20 sensitive" when he interpreted the use of the phrase is something for the jury to decide. The  
21 possibility that may have become too sensitive is not grounds for the Court to categorically exclude  
22 all evidence that the phrase was used by Burbank police officers.

23 Thus, Defendants motion should be denied.

24 **II. DEFENDANT HAS FAILED TO SHOW ANY**  
25 **REAL PROBABILITY OF UNDUE PREJUDICE**

26 Local Rules require the moving party to include in any motion *in limine* a declaration that  
27 includes a "statement of the specific prejudice that will be suffered by the moving party if the motion  
28 is not granted." (Local Rule 8.92(a)(3).) There is no such statement of prejudice, specific or

1 otherwise, in the Declaration of Philip L. Reznik accompanying Defendant's motion. Defendant's  
2 motion should therefore be denied.

3 Defendants argument that such evidence should be excluded because it would be unduly  
4 prejudicial is unpersuasive. *Bihun v. AT&T Information Systems, Inc.*(1993) 13 Cal. App. 4th 976,  
5 was a sexual harassment action in which the defendant moved to exclude evidence of his  
6 relationships with women at work on the grounds that such evidence was unduly prejudicial under  
7 Evidence code §352. The court disagreed, stating:

8 While the challenged evidence may have supported the testimony of [plaintiffs], it is not  
9 "unduly prejudicial" for that reason. "The 'prejudice' referred to in Evidence Code section 352  
10 applies to evidence which uniquely tends to evoke an emotional bias against defendant as an  
11 individual and which has very little effect on the issues. . . . 'Prejudicial' is not synonymous  
12 with 'damaging.' " (People v. Yu (1983) 143 Cal.App.3d 358, 377 [191 Cal.Rptr. 859].) We  
13 fail to see how a plaintiff can prosecute an action for sexual harassment against a corporate  
14 employer without introducing evidence of sexual harassment by an employee. To say this  
15 evidence is unduly prejudicial because it "brands" the employee as an "harasser" is like  
16 saying evidence the defendant committed a murder is unduly prejudicial because it "brands"  
17 the defendant as a "murderer."

18 (*Bihun* , *supra*, at pp. 989-990, disapproved on other grounds in *Lakin v. Watkins Associated*  
19 *Industries* (1993) 6 Cal. 4th 644, 664.)

20 Likewise, in the case at bar, evidence that Burbank Police officers used offensive language  
21 when describing Armenians is not unduly prejudicial just because it support Plaintiff's claim that he  
22 was harassed for being an Armenian. It is also not prejudicial just because is it supports Plaintiff's  
23 claims that Defendants failed to take reasonable steps to prevent harassment.

24 Defendants' motion should therefore be denied.

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1 **III. CONCLUSION**

2 For all the foregoing reasons, Plaintiff respectfully requests that Defendants' motion *in limine*  
3 No. 9 be denied.

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5  
6 DATED: May 23, 2011

LAW OFFICES OF RHEUBAN & GRESEN

7  
8 By: Steven M. Cischke  
9 Steven M. Cischke  
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